

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID KUZNETSOV, ) CASE NO. C07-0858-MJP  
)  
Petitioner, )  
)  
v. ) REPORT AND RECOMMENDATION  
)  
NEIL CLARK, et al., )  
)  
Respondents. )  
\_\_\_\_\_ )

On June 5, 2007, petitioner David Kuznetsov, proceeding through counsel, filed Petition for Writ of Habeas Corpus and Request for Immediate Release from Detention pursuant to 28 U.S.C. § 2241, challenging his continued detention without bond by the U.S. Immigration and Customs Enforcement ("ICE"). (Dkt. #1). Respondents were served with the petition and on July 11, 2007, filed a Return Memorandum and Motion to Dismiss. (Dkt. #12). Petitioner subsequently filed a response, respondents filed a reply, and petitioner filed a surreply. (Dkts. #15, 16, and 17). On August 31, 2007, however, petitioner filed a Notice of Release from Detention, indicating that the Immigration Judge had approved his application for a section 212(c) waiver and that he had been released from detention. (Dkt. #18).

01 For a federal court to have jurisdiction, “an actual controversy must exist at all stages of  
02 the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).  
03 “When a controversy no longer exists, the case is moot.” *Id.* Because the Immigration Judge  
04 granted petitioner relief and he is no longer detained, the Court finds that petitioner’s habeas  
05 petition should be dismissed as moot. *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir.  
06 1992) (holding that the District Court properly dismissed plaintiff’s claims that had become either  
07 moot or unripe). Accordingly, I recommend that this matter be dismissed without prejudice. A  
08 proposed Order accompanies this Report and Recommendation.

09 DATED this 12th day of September, 2007.

10   
11 \_\_\_\_\_  
12 Mary Alice Theiler  
13 United States Magistrate Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22